THE COURTS.

TWEED'S TRIAL-SIXTH DAY.

Another Legal Tournament-Objections Raised to the Indictment-Was Tweed Responsible as a Public Officer !- Able Argument of Counsel for the Prosecution and Defence-The Court Overrules All the Objections-Testimony To Be Taken To-Day.

THE DEPUTY CHAMBERLAIN FIGHT.

Deputy Chamberlain Fails in His Injunction Suit Against Foley-The Court, on Motion of Chamberlain Palmer, Grants an Injunction Against the Irrepressible Foley-The Battle To Be Pought Over Again.

THE JUMEL ESTATE CASE.

Madame Jumel's Wills and Settlement of Her Property-Her Testamentary Intentions-Evidence for the Defence.

BUSINESS IN THE OTHER COURTS.

Summaries-Decision in Bankruptoy-The Woodhull-Claffin-Blood Case-Convictions and Sentences in the General Sessions-Decisions.

In the Tweed case yesterday the sessions were sumed in an important argument by counsel on a point raised by the defence that the prosecution shall select some particular count in the indictment to proceed upon, to the exclusion of all the other counts. The argument was confined to Mr. Pield for the defence and Mr. Tremain for the tion. The Court ruled against the defence, and the examination of witnesses will be com menced this merning.
In the United States Circuit Court yesterday the

hearing of the ease of George Washington Bowen vs. Nelson Chase was resumed before Judge Shipman and the special jury. Mr. Charles O'Conor continued his address in making the opening stateent on behalf of the defendant. The learned gentleman having closed about three o'clock, evidence was offered on the part of Mr. Chase respecting the wills of Madame Jumel. The case was adsourned till to-day.

ac, from Scotland to this port, was charged before Commissioner Shields with having smuggled an ssorted cargo of copper, liquor, sugar, molasses, to. He was held in \$2,000 bail for examination. Charles W. Jacobs, charged before Commissioner

leserting from the ship Hattle Sampson, was held in \$250 ball for examination.

The members of the legal profession practising in the Second Circuit of the United States Circuit Dourt will hold a meeting on Friday next, at two p'clock, for the purpose of taking some action in regard to the retirement of the Hon. Samuel Nelson as one of the Judges of the Supreme Court of the United States. The call for this meeting is signed by William M. Evarts, George T. Curtis, Charles O'Conor, Erastus C. Benedict and several other distinguished members of the Bar.

Yesterday Commissioner Davenport heard the arguments of counsel in the case of Woodhull. laffin & Blood, who are charged with having forwarded obscene publications through the United States mails. At the close of the arguments the issioner reserved his decision.

Judge Barlow, of the Superior Court, refused yesterday to grant the injunction applied for by Deputy Chamberlain Palmer against John Foley. enjoining him from attempting to assume the unctions of Deputy Chamberlain by virtue of his appointment to this office by the Comptroller. Directly after the Judge's decision application was made by Mr. Palmer to the Chamberlain for a similar injunction, and granted. The injunction morrow, when the subject matter will be discussed upon an order to show cause why the same should not be made permanent. This leaves the legal battle as to this phase of the case to be fought over again. Meantime the temporary injunction obing the banks made depositories of public moneys from paying any money to the Chamberlain except upon warrants drawn by the Comptroller and countersigned by the Mayor still holds good. This matter was to have been argued yesterday before the argument was postponed to allow the Chamberlain's counsel further time for preparation.

Motion was made yesterday before Judge Barrett, at Supreme Court, Chambers, for an order to show cause why three suits brought by Edward Jones against the city for corporation advertising should not be consolidated. The amount of the claim is some eight hundred thousand dollars. Three suits are pending in the matter, one in the Supreme Court, one in the Superior Court and one in the Common Pieas. The object of the proposed consolidation of the suits is to save costs to the city in case the latter is defeated in the suits.

In the suit brought by David J. Detwiller against the city for pay for fireworks furnished for the Fourth of July, 1869, the facts of which have already been fully published in the HERALD, and which was concluded yesterday before Judge Van Brunt, holding Supreme Court Circuit, a verdict was rendered for \$27,472, being the full amount claimed; with interest.

TWEED'S TRIAL.

The Proceedings Yesterday-Legal Objections Raised and Discussed-Able Argu-ments of Counsel-The Ruling of the Court Denying the Motion of Defendant's Counsel. Yesterday, the sixth day of the proceedings in

the trial of William M. Tweed in the Court of Oyer and Terminer, little progress was made, so far as any case has been made out against the defendant from the testimony to be adduced on the part of the prosecution. As will be seen from the report of the day's proceedings as given below, the whole of the session was consumed by counsel in argu-ment in defending and controverting objections tial work was performed, however, in this that counsel exhausted all the legal technicalities for and against the objections within the compass of their legal lore, and the question was decided by the Court. The ruling of Judge Davis was averse to the ground taken by the defence, and this will clear the way for the examination of witnesses to-day. The arguments were ex-haustive, and the points raised and so successfully combated very important to the case at issue. There was a very large attendance in the court room throughout the day, and the greatest interest was manifested in the legal tournay, as the impression had got abroad that the objections to be raised would be fatal to the continuance of the trial. It was half-past three o'clock when Judge Davis closed his remarks overruling the motion, and counsel for the prosecution deemed it then too late to call any witnesses. In this the opposing counsel and the Court concurred, and the Court was adjourned accordingly ery this morning.

The Court opened at eleven o'clock, Judge Davis

which had appeared in some of the morning pa-pers, to the effect that the District Attorney asked for a consultation with his colleagues on the previous day, for the purpose of taking measures for the removal of one of the jurors, Mr. Williams, on the ground of his being a member of the Ameri-cus Club. The prosecution were satisfied that Mr. Williams was a fair and just man.

THE EVIDENCE-MR. STORRS ON THE STAND-AN IN-TERRUPTION.

The first witness called was Mr. Richard A. Storrs, the Deputy Comptroller. The witness having answered an initiatory question,

FIRST LEGAL OBJECTION. Mr. Field rose and moved that the people be requested, as a preliminary, to establish the official position which it is claimed in the indictment the

Mr. Field rose and moved that the people be requested, as a preliminary, to establish the official position which it is claimed in the indictment the accused held. The defence proposed to snow that he never held the official position in question.

Mr. Peckham offered the statute creating the Board of Audit in evidence to establish the position held by Mr. Tweed.

MR. Field—Very well. We object. Now, chapter 382 of the laws of 1870 is an act entitled "An act to make further provision for the government of the county of New York." passed April 6, 1870. At the beginning of the statute, as Your Honor knows, is an extract from the laws of 1847—That there shall be prefixed to the statute laws the names of the Governor and other officials, including Senators." Here, then, is the name of William M. Tweed as Senator, the term to expire with the year 1870, and not before. Now, our position is this:—While it is very clear that while there is in the statute book what purports to be a statute, the fourth section is to be treated as so much blank and to be stricken from the statute altogether as being beyond the competency of the Legislature to passit or to give any official position or trust under it. There are various objections to the statute in respect to its constitutionality or alleged unconstitutionality, and I think it proper for me now, and I think it proper for me now, and I think it proper for me now, and it hink it proper for me now, and consultation, it is of very little consequence in which order I proceed, but I will for the sake of convenience first take that objection which goes to show that there was no such office ever created. We answer the objection that may be taken to this that the defendant could have held the office de facto if he had not been at the time an officer de fare by showing that the Legislature never did create such an office, and then there is no difference between de fare and be facto. Our first position is that it is a two-thirds bill and that that fact should be certified, and without on the statute of 1870 of three-fifths being present, and there being nothing to indicate that blere was a two-thirds vote; that this bill, on the fourth section of which this indictment is found, is not to be regarded as a two-third act. The bill was a two-third act act house it is no law according to the constitution and statutes. Then the only remaining question is this, is the bill within the category of the ninth section? Was the bill an act to appropriate property for local or private purposes? Now, luckly, we have a decision upon that very point in the third of Kernan. Now Your Honor knows how often the question has arisen in the Court of Appeals respecting the powers of the Legislature for taxation, especially local taxation, it was one time held that the Legislature could not impose a tax on localities—no tax except what was general throughout the State; but it was held finally that the Legislature had the power of taxation to an unlimited extent, or to an extent which is practically unlimited; that it was solely within their competence to determine whether the Legislature should tax the city of New York, the State of New York or the county of Ningara; that they could tax any locality or the whole of the State; that no Court could inquire into the motive they had or the purpose for which the taxes were to be raised. It was objected to very streniforsy that the Legislature could not impose taxation upon any locality except to pay the debt of the locality. But Chief Justice Depig, in the case referred to in the Court of Appeals, gave the opinion of the Court that the Legislature had the power, and that there was no qualification or restriction upon it except this—that the bill must be passed by a two-thirds vote of all the members elected to both houses. This is the argument which we offer to show that the fourth section is no law. The constitution:—"No member of the Legislature shall receive any civil appointment which we offer to show that the fourth section is no law. The constitution is not continuen

THE INDICTMENT IS GOOD FOR NOTHING. I am simply considering the question whether, as an officer, he expessed himself to this indictment, an officer, he exposed himself to this indictment, and if the section has any power at all it is to be applied to this case, where the counsel for the prosecution themselves charge the defendant with being a public officer, and as such charge him with neglect and misconduct. I refer you to two cases to establish the position I now take that this was an appointment by the Legislature to Mr. Tweed. There is the case of the People vs. Blake (Barbour's Reports, 49) and the United States vs. Morris, where Chief Justice Marshall states that the Legislature cannot place a person in a position like that held by the defendant in office; if they do, they do exactly what is prohibited by the constitution. In the case of the People of the State of Onio vs. Kenyon such an appointment was declared absolutely void. Counsel also cited the opinions of Chief Justice Hunt and Judges Townscad and Ingraham in support of his position, and submitted that the fourth section of the act was distinctly contrary to the constitution. Counsel also contended that this was an attempt of the Legislature to elect a tribunal not known to the

any force, what then was the consequence? Why, that

MR. TWEED WAS NOT AN OFFICER DE JURE

or de facto. That he was not an officer de jure nobody will deny; but was he an officer de jure nobody will deny; but was he an officer de facto?

He took the ground that, being an officer de facto?

He took the ground that, being an officer de facto

if he was such), he was not liable upon the indictment, which charged him with being an officer
where there was really no office to fill. In the case
of the People vs. White, in 24th Wendell, it was decided that a person cannot be in onlee with a color
of title against an unconstitutional act. The defendant was indicted for official negligence, and
the foundation of the charge was that he held a
public office under the laws of this State. Counsel
contended that the

DEFENDANT HELD NO OFFICE

under the laws of the State, and therefore was not
culpable. If he be guilty let some other law be
found that he has violated. He did not violate the
law upon which the indictment is framed, because
he was not a public officer. He claimed that the
section of the act of 1870 was futtle, that it was
waste paper as far as this case was concerned, that
it had no validity and that there was no office of
auditor to fill. Defendant was never at any such
office, he was not chargeable criminally for not
having performed or fuillied that office, and he
maintained that he never was an officer, either de
facto or de jure.

MR. TREMAIN'S ARGUMENT.

office, he was not chargeable criminally for not having performed or fulfilled that office, and he maintained that he never was an officer, either de facto or de jure.

MR. TREMAIN'S ARGUMENT.

Maint although the objections assumed the form of an attempt to arrest evidence it was substantially a demurrer, or, in case there would be a verdict, would form the same matter that would in that case be presented in the form of an arrest of judgment. The Court had already determined between the people and the defendant that the demurrer which had been at first interposed to the whole indictment, and afterwards to each count in the indictment, should be overruied, and that stands as setting the law of the case until reversed—that the indictment and each count of it contained an indictable offence against the delendant. In addition to that a motion was made to quash the indictment itself, on the ground that there was no crime, and that also being overruied it was received as to each count separately, and on that motion judgment was pronounced. Now, he understood the counsel for the desence to say that while proceeding in the ordinary course of a trial under a piea of not gality to prove every averment contained in the indictment, they should not be permitted to give evidence to prove it, because when proved one cause of action was a criminal offence, and would be thereby established. In other words, it was proposed now, when there was no opportunity to appeal, that the motion should prevail, and that the defendant thereby be acquitted, and the selemnly pronounced judgment of Judge Ingranam be reversed. What was the ground of the motion? That the Legislature passed an act imposing upon the defendant grave and resuonsible public duties; that the act was unconsible public duties; that the act was unconsible public duties; that the the act was unconsibl Mr. Treman, rising and addressing the Court,

The ground of the motion? That the Legislature passed an act imposing upon the defendant grave and responsible public duties; that the act was unconsistent on the passed and responsible public duties; that the act was unconsistent on the passed and responsible public duties; that the act was unconsistent on the passed and responsible public duties; that the act was unconsistent or the passed and passed

tion or duty was created by it. In addition to that it was claimed that Tweed was a member of the Senate, and was, therefore, incligible, under the constitution, to receive what was called an appointment, and for that reason no legal responsibility attached to him in entering upon and performing the duties of that office of appointment. In other words, his position justified him in receiving and

ceiving and
POCEPTING A SIXTH OF THORE STOLEN MILLIONS, and in the meantime no member of the body politic has ever complained of the pasage of such a law. The people, who were the parties interested, on their side quiety acquiesced in the assumption of this authority and power, which the defendant assisted in passing, and so he has pocketed \$1,000,000 under the forms of this law, and he now asks a Court to arrest substantially, all further action upon this trial to hold that he was clothed with perfect immunity from punishment for these gross and abominable violations of his official position, and that there was no law to punish thm for his crime. It was a proposition quite consistent with the character of the offences charged against the defendant, and which, these fivioleus obstacles being removed, he proposed to establish to the satisfaction of every honest man on the jury. If the motion of counsel for the defendant prevalled it struck at the rost of the whole evidence, would necessitate the discharge of the defendant prevalled it struck at the rost of the whole evidence, would necessitate the discharge of the defendant prevalled it struck at the rost of the whole evidence, would necessitate the discharge of the defendant prevalled it struck at the rost of the whole evidence, would necessitate the discharge of the defendant prevalled it struck at the rost of the court after the case was submitted to the jury, when each side had the right of appeal. In the second place it involved a grave question as te the constitutionality of the Court to say that for all purposes of this trial this act must be regarded as constitutional and legal. The first objection had really no application to the case. The bill simply provided for a payment of the seconds of the city of New York. It was true that the bill sid not certify that two-thirds of the members of both houses voted for its passage, but the Court of Errors decided that the journals of the chouse, for the defendant was the termitation and the power by with the seco

tion of the Court to numerous authorities, and submitted that the motion of counsel for the de-

tion of the Court to numerous authorities, and submitted that the motion of counsel for the defence should be overruled.

Mr. Field said that the journals of the house could not be received in evidence.

BULING OF THE COURT.

Judge Davis, in passing upon the motion, said the objection raised a most serious and important feature in the case. As to the suggestion made in reply to the objection—that it was sufficient that the defendant was an officer de was an officer de fine of the objection whether was an officer de la court of the objection whether was an officer de fine of the objection whether was an officer de la court of the objection was well taken as to the entire indictment. So far as the indictments charged neglect of duty or refusal to perform a duty enjoined by the law, I imagine it would be impossible to suctain against an official under our statute for whituly neglecting to perform an official duty—the gravamen of the indictment being neglect unless he was an officer de jure he would be by law under no obligation to perform such duty. The indictment divides itself into two branches—one charging neglect of duty, and the other charging an improper execution of his sole duties. I am inclined to think, under the authorities before me, that he was

AN ACTIVE OPPICER
discharging these duties—that he discharged them
proves no corruption or wilful intention to do what
the law denounces as a crime. In this case it
seems to me that he was an officer de facto,
and the conclusions I have arrived at render it
necessary that I should pass upon the question. It
was always a most delicate thing for a judge sitting
in Oyer and Terminer, to pass upon the
constitutionality of a law, but if he
was satisfied beyond a reasonable doubt
that it was illegal he would have no hesitation in
saying so. As to the first objection, it appeared
prima facte under the statute that the bill was not
passed by a two-thirds yote, but that did not bewith the third objection—that the fourth section was an attempt to establish a debt against the city; it simply provided for existing debts, and the fourth objection was involved in his ruling of the second. He also differed from the last objection, and would, therefore, overrule the motion.

The Court then adjourned.

THE DEPUTY CHAMBERLAINSHIP.

Denuty Chamberlain Palmer Fails in His Injunction Against Foley-Cham-berlain Palmer Takes Up the Gauntlet and Gets Foley Enjoined-Judge Barbour's Decision-The Battle To Be Fought Over Again-That Other In-

One phase of the legal controversy between Walter B. Palmer and John Foley as to which shall be Deputy Chamberlain was decided yesterday by Judge Barbour, of the Superior Court. It will be remembered that the former claims the office under appointment by the Chamberlain, pursuant to a statute of 1866, and the latter by appointment from the Comptroller under the charter of 1870, and Mr. Foley, having assumed the right to enter upon the tuties of the office, and presenting himself daily for that purpose, application was made by Mr. Palmer for an injunction restraining him from his attempt to assume the functions of the office. This application Judge Barbour has denied. grounds of his denial are embodied in the following brief opinion :-

grounds of his denial are embodied in the following brief opinion:—

OPINION OF JUDGE BARBOUR.

In the case of Pappon vs. Gray (9, Paige, 507) the plaintiff alleged in his bill that he held the office of Flour Inspector, and as such officer was entitled to perform certain duties, and have and receive fees therefor, and that the defendant, under color of an illegal or invalid appointment from the Governor, claimed and was exercising the right to perform those duties and receive the fees to the injury of the plaintiff; and therefore the complainant prayed for an injunction restraining the defendant from acting as such Flour inspector until the title to such office should be determined under the statute. On demurrer to the complaint, the Chancellor held that the Court had no jurisdiction to grant the relief prayed for, and that decision was unanimously affirmed by the Court of Errors. (L., Thill, 259). Upon the authority of that case I should therefore have been bound to deny this motion for a preliminary injunction, even if the plaintiff had established the fact that the claim of the defendant to the office of Deputy Chamberlain was, in fact, working an injury to him. But-1 am unable to perceive that the complainant has any such pecuniary interest in the office as entitles him to relief by way of injunction. If he continues to discharge the duties of the office or holds himself in readiness to do so be may receive his salary as it falls due, notwithstanding any illegal claim or act of the defendant, and he has no interest whatever in the subject matter of the suit beyond the receiving of his salary. The motion for an injunction must, therefore, be denied with costs.

THE CHAMBERLAIN HIMSELF IN THE FIELD.

THE CHAMBERLAIN HIMSELP IN THE PIELD. Hardly had the above decision been announced when application was made to Judge Barbour, on be-

position and compels a fighting of the battle over again.

Testerday was the day set down for hearing, before Judge Barrett, at Supreme Court, Chambers, the argument in the case of the temporary injunction granted on application of Mr. Foley, restraining the various banks in which the city funds are deposited from paying any money to the Chamberlain, except upon warrants drawn by the Comptroller and countersigned by the Mayor. The argument, it is hardly necessary to state, is to be directed to the question as to the continuance of the injunction or doing away with it altogether. There was a prompt appearance of the opposing counsel, but the Chamberlain's counsel stated that they had not yet been able to prepare an answer to the allegation set forth in the lengthy amidavit of Mr. Foley, upon which the temporary injunction was granted, and for such preparation they desired more time. This request was granted, and in the interim the temporary injunction continues in force. It is probable that the argument will take place to-morrow or next day.

THE JUMEL ESTATE CASE.

The Suit of Bowen vs. Chase-Continuation of Mr. O'Conor's Opening State ment for the Defendant-Madame Jumel's Wills and Settlement of Her Property-Her Testamentary Intentions-Evidence for the Defence.

The further hearing of the case of George Washington Bowen vs. Nelson Chase was resumed yesterday in the United States Circuit Court, before Judge Shipman and the special jury.

Mr. Hoar, Mr. Chatfield and Mr. Shaffer appeared

as counsel for the plaintiff, and Mr. Charles-O'Conor

and Mr. J. C. Carter for the defendant. CONTINUATION OF MR. O'CONOR'S OPENING STATE-MENT FOR THE DEPENDANT. Mr. O'Conor said it might not be necessary to refer further to the fortunes of Mary Jumel, but he would refer to the period when Madame Jumel came to the settlement of her property. She had been at one time a woman of strong will and vain, but she was a person who had great force of character. Her mind was undoubtedly affected, but in making a bargain, in buying and selling, one would say that she was not insanc. She was a monomaniac, if insane at all, for she appeared to have abandoned all the early ideas of her life in regard to the settlement of her property and affairs. When an aged person was about to depart from this world, with all its joys and pleasures, there occasionally arose in the mind, and such an one, a morbid desire not to leave his or her property to expectants, and when wills of this character came tives and duties to friends which often, in the judgment of Courts, rendered them inoperative. This being so, Madame Jumel was not exactly in a condition of mind to make a disinheriting will. She made a will in 1863. On her death this will stood in the erty, and a suit was instituted to set it aside undertook to find out the relationship between

Devine, of the firm of Martin & Smith, of this city, undertook to find out the relationship between Mrs. Jones and Madame Jumel. He went into Rhode Is'and and made the strictest inquiries upon this subject. The first batch of heirs came on to New York and made an arrangement with a lawyer for one-fourth of the proceeds of the suit. They were got rid of, and he supposed others were waiting to see what the result which a lawyer for one-fourth of the proceeds of the suit. They were got rid of, and he supposed others were waiting to see what the result was made of the proceeds of the suit. They were got rid of, and he supposed others were waiting to see what the result was made of the proceeds of the suit. Mr. Case could hot lay lay you a single sixpence for blackmailing purposes, because, if he did, he could not tell where that kind of thing would stop. He (Mr. O'Conor) would now consider how G. W. Bowen had been introduced into this suit. Mr. Devine found, upon examination, that Phoebe Kelly, a young, unmarried woman, came into Providence at sixteen or seventeen years. When she is about thirty years of age she is again brought before the Town Council, and that examination states that she was married at fitteen or sixteen years of age; that her husband was John Bowen, a foreigner; that she had three children—John Bowen, her son, who died early, and her two daughters, Betsy and Maria. Mr. Devine visited George W. Bowen, who had been said to be so like George W. Bowen, who had been said to be so like George W. Bowen, who had been said to be so like George W. Bowen, who had been said to be so like George W. Bowen, who had been said to be so like George W. Bowen, who stated that the names of Polly and Betsy Bowen were new to him; he had never heard of them before. There never was any pretence on the part of Bowen that he was the son of Madame Jumel, and not a shadow of pretence that he ever had the smallest communication with her. It was notorious in Providence that G. W. Bowen was illegitimate, yet he was married and

saw Madame, draped in splendor, going to her carriage, and the wife remarked that that was a fine lady, Bowen never said one worddid not uiter a syllable to show that Madame Junnel was his mother. Annie Eliza Wandervoort planned with Bowen to carry on this case, and with a firm ol lawyers in this city they brought a lot of suits; plaintif failed to appear, though an agreement actually in writing had been made that Bowen and Vandervoort were to have half and the lawyers the other half. A suit was commenced in the State Courts by George W. Bowen to recover this property, but he thought that he could not get justice there, so he determined to bring his case into the United States Courts, and he (Mr. O'Conor) trusted justice would be done him. Mrs. Vandervoort was turned out of the case as plaintiff, and now it was brought in this Court in the sole name of George W. Bowen. In the former trial of this case there was a leading counsel now in the case (Mr. Hoar) who had come from another State; a man of eminent distinction. But if there was to be a fourth trial he did not expect to see him in it, and his irlend, Mr. Chatfleid, might be left alone, or he could go to Kilkenny, of which they had heard, and there find some lawyer who would conduct the case, like the cats, that lought until nothing was left of them but the tips of their tails. (Laughter.) Mr. O'Conor then adverted to engagements that had been entered into by G. W. Bowen with various lawyers in this city to conduct his case for him, he agreeing to give them a certain amount of the profits arising from the suit, and having no trouble whatever with the summoning of witnesses. He had placed the case in the hands of Judge Edmonds, but the Judge had finally abandoned it. Counsel then went on to refer to the statements of the witnesses for the plaintiff, one of them having been fished up by Mr. Start, a juror on the last trial of this case. Those witnesses showed the utmost facility for sulftling and changing about. When Mr. Devine was down in Providence he ascer

one of

THE MOST SHAMELESS
that had ever been brought into a court of justice.
Here was a person selling half his claim to witnesses and half to lawyers. In ancient law such a thing known as thing known as

CHAMPERTY
was considered infamous. The statutes condemned
it, and though there had been some modification of
this practice by statutes of this State, still the practice should not be tolerated unless it was absolutely necessary. Madame Jumel had conveyed the property to Many Jumel by a deed; but in 1838, after air. Jumel returned from France, Madame Jumel went to Mr. Rent and she there executed a final instrument of the property to the effect that she was to have the enjoyment of it for her life, and Mr. Jumel for his life if he survived; and at the death of both the property was to go to Mary Jumel in fee. That instrument was put on record in the City Hall, and it made it pretty clear who was to be regarded as the helr of Madame Jumel. He put it to the jury to say whether, if the property never originally belonged to Madame Jumel, the plaintif could inherit it, even if it was proved, which it was not, that he was Madame Jumel's illegitimate son.

At one o'clock a recess was taken for half an After the recess Was Canada and his address.

nour.

After the recess Mr. O'Conor resumed his address to the jury. The question as to the heirship of G. W. Bowen was for their consideration, and it would be the duty of the Court to give them such advice as it might deem proper in regard to that matter. The property was conveyed by Madame Jumel on the 13th of May, 1828, to Mary Jumel, and later, for the consideration of \$1, Mary Jumel conveyed the property to Michael Workmeister in trust for Madame Jumel. Madame reserved to herself complete power of revocation by will. She stated in the deed of appointment, that immediately after her death the property was, in case her husband should not survive her, to go to Mary Jumel and her heirs. That was an equitable title, and it was said that the legal title vested in Workmeister, the trustee. It was law in the State of New York that the trustee, having the equitable title, could reher heirs. That was an equitable title, and it was said that the legal title vested in Workmeister, the trustee. It was law in the State of New York that the trustee, having the equitable title, could recover against the person having the cestul que trust. But Workmeister being dead could not bring the action, and no one had brought it in his behalf. On that ground, therefore, there would not seem to be any difficulty. In 1834 a conveyance was made to Alexander Hamilton of part of this property, but he seemed not to have been satisfied with his title, and he reconveyed the property back to the same parties on the same trust on which he had received it. In 1846 Madame touch the property out of the hands of the trustee and vested it in herself. One of the deeds in this transaction was a deed of conveyance by Madame to Francis Phillippon of the property for 310,000, and on the same day and at the same moment Mr. Phillippon conveyed back the property to Madame for \$1. In law and reason that was a fraud upon the previous settlement. She was the trustee, the settlement was on record, and Mr. Phillippon knew it. Madame was entitled to the possession of the whole of the estate during her life, and by making a frandulent conveyance an adverse title could not be set up against the remainderment. He contended that on the death of Madame Jumel the legal title vested in the heirs of Mary Jumel, she being dead. This property never directly belonged to Madame Jumel, but he had left her the power of disposing of it as she pleased. What did the counsel for the plaintiff mean by putting this man Bowen forward with a technical title to this property, to be put in possession of it one moment to be kicked out of it the next, as could be done by a bill in equity by the party in possession? But to do that it would be necessary for the defendant could not do, and it, therefore, remained for Mr. Chase to fight out that was a thing the defendant could not do, and it, therefore, remained for Mr. Chase to fight out that he would have reco

for Mr. Chase to fight out the case to the last. They had to fight

He (Mr. O'Conor) did not know but that he would have recommended his client to have settled this case, only that if he did so he might again have to fight another of the bastards who were setting up claims to this property. He had no doubt there were forty persons in Court who could make out as good a claim to this estate as Mr. Bowen. The defendant therefore was obliged to fight and would fight out the case to the end. He stated they would show by copious documents that the most intimate relations existed between the members of this family from the time Mary Jumel was admitted into it down to the period of the death of Madame Jumel. He closed by impeaching the entry in the King Henry book respecting the birth of George Washington Bowen as an utter, rank and corrupt fraud, recently got up to hoodwink the Court.

It was close upon three o'clock when Mr. O'Conor closed his address.

Evidence was then given to show that Mr. Smith Barker, an attorney and counsellor at law, of this city, who was examined upon the last trial, and who had prepared a will for Madame Jumel, had recently died. Mr. Barker's deposition respecting this will, as given upon the last trial, was then read.

Mr. John M. Holland, a merchant, residing at

read.
Mr. John M. Holland, a merchant, residing at Fort Washington, deposed that he was one of the subscribing witnesses to the will of Madame Jumel, dated April 15, 1863.
The further hearing of the case was adjourned until this morning.

BUSINESS IN THE OTHER COURTS.

UNITED STATES DISTRICT COURT-IN BANKRUPTCY. Claims Against the Joint and Separate Estate of the Bankrupts, Decision by Judge Blatchford.

Yesterday Judge Blatchford rendered a decision in the matter of John M. Berrian and Cornelius A. Berrian, bankrupts, pending before Mr. John Fitch,

Berrian, bankrupts, pending before Mr. John Fitch, Register. The following question was certified to the Judge:—

Claims against the joint and separate estate of John M. Berrian, including computation of interest paid to the date of adjudication only, have been proved at a meeting of the creditors, November 12, 1872. It appears by the assignee's account that he has collected sufficient to pay all the debts proved against the separate estate of John Smith pleaded guilty to an attempt at burgiary in the state Prison.

John Smith pleaded guilty to an attempt at burgiary in the third degree, the indicament charging the bankrupts have proved claims against the joint extensive the surplus from J. M. Berrian's separate estate of John Smith pleaded guilty to an attempt at burgiary in the third degree, the indicament charging and the surplus from J. M. Berrian's separate estate of John Smith pleaded guilty to an attempt at burgiary in the third degree, the indicament charging flat on the list of December he broke into the flat of the base and the surplus shall be defer the surplus shall be predicted the payment of interest which has accrued the

Calendar for This Day.

Anmach vs. The Schooner Greele.
Whitney vs. The Schooner Emeline.
Earle vs. The Schooner Emeline.
Brown vs. Lord.
Benedict vs. The Steamtug Niagara.
Nickerson vs. The Steamtug Echo.
Johnson vs. The Steamtug Grant.

UNITED STATES COMMISSIONERS' COURT.

The Examination in the Case of Woodhull, Claffin and Blood Resumed-Another Day of Quotations and Windy Oratory-Propositions Submitted by Defendants' Counsel - Decision

Before Commissioner Davenport. The examination of the wayward sisters, Woodhull & Claffin, and Colonel Blood, on the charge of sending obscene matter through the United Commissioner Davenport in the federal building in Chambers street. The Commissioner sat in the Grand Jury room, as usual, which was crowded to excess with well-dressed young men. During the examination Judge Dewling entered the court room and took a seat beside Commissioner Daven-port. Messrs. Howe & Hummel, Jourdan and McKinley appeared for the accused.

Judge Dowling seemed to enjoy the fun im mensely, and the frown which usually clouds his classic brow in his own court gave way to halfconcealed smiles as the learned counsel quoted spicy extracts from "Hudibras" and Aristophanes' Greek plays. The Judge seemed to know all about

Greek plays. The Judge seemed to know all about it.

Mr. Jourdan made an address of an hour's duration to the Commissioner, and quoted "Hudibras" and other authers so extensively and thoroughly that the wayward sisters were fain to hold down their heads, and Mrs. Woodhul blushed deeply. Counsel compared them to Galileo and Martin Luther.

During the address of counsel a tall, lank individual in black, with a white tie and shiny black hat, the counterpart of the Rev. Mr. Howler or the Rev. Mr. Stiggins, the friend of the elder Pickwick, came into court and took a seat near the reporters' table, facing the sisters, at whom he glared solemnly for a few minutes and then plously threw up his eyes to the ceiling. This gentleman seemed to be intensely amused at the broad passages quoted.

APTER RECESS.

to be intensely amused at the broad passages quoted.

AFTER RECESS.

After recess Mr. McKinley addressed the Court and denounced Comstock, the witness for the prosecution, in the most unmeasured terms. He also indulged in a little acerbity against the Assistant District Attorney, Mr. Purdy, whom he styled "a top sawyer,"

Mr. Purdy replied and stated that he was never pefore so thoroughly persuaded that Billy Birch was an actual delineator of a certain style of oratory.

After this little scene between counsel, Mr. William F. Howe submitted the following points:—

First—That the prosecution infringed upon the freedom of the press, there being nothing obscene in the paper.

Second—That if a decision were given against the prisoners the Holy Bible, Byron, Smollett &c., were indictable matter as a whole.

Third—That Comstock should be arrested if the Commissioner's decision were adverse to the prisoners, on the ground that he was the cause of having obscene matter transmitted through the United States mail, having paid for it.

Mr. Purdy replied on behalf of the government in an able address, contending that the article complained of was of a very viic, ebseene and scanda-

lous character, and he trusted that the Co stoner, in the fearless discharge of his duty, hold it to be obscepe.

for the islaming propositions to Commissioner Daves.

port:—

Pirst—That it will be a violation of the constitution and destructive to that freedom of the presguaranteed by the constitution to hold these defendants on this charge, there being nothing obscene on the face of the publication.

Second—That if you, as Judge in this case, hold
this publication to be obscene, then you publicly
declare and render it as your solemn judgment
that the Holy Bible and Shakspeare are indicable

Third—That if you should, by the remotest possibility (but which result I do not apprehend), hold
these defendants, then, as a matter of law an
justice, you must also hold the complainant, Cor
stock, as a principal.

The Commissioner reserved his decision.

RETIREMENT OF JUDGE NELSON.

The members of the Bar of the United States Courts of the Second Circuit are requested to meet in the United States Court room, in the city of New P. M., to take action upon the retirement of Mr. Justice Nelson from the Supreme Court of the

United States,
Edwards Pierrepont.
George Ticknor Curtis.
George Guford.
Murray hoffman.
E. C. Benedict.
William M. Evarts.
NEW YORK, Jan. 14, 1873.

SUPREME COURT-TRIAL TERM-PART 2. Retrial of an Old Suit-Liability of Come

Before Judge Fancher.
In July, 1855, the Russell Manufacturing Com-pany shipped by the New Haven Steamboat Company six boxes of cutlery from New Haven to this city. The goods arrived safely and were transcocurred from the steamer to the wharf, when a fire occurred during the night, destroying the wharf and the goods. Suit was brought to recover \$2,471.76, the value of the goods. The case was tried before Judge Van Brunt and resulted in a verdict for the defendant. An appeal was taken from this verdict to the General Term and the judgment affirmed. It was then taken to the Court of Appeals and a new trial ordered. The second trial was concluded yesterday. A verdict was given for \$3,582, being the full amount claimed, with interest.

SUPREME COURT-CHAMBERS. Decisions.

Syms et al. vs. Pabst et al.,—Motion denied, with \$10 costs and stay vacated.

Hanson Bart vs. Richards.—Motion denied, with \$10 costs.

\$10 costs.

Margaret Jordan vs. Cornelius Jordan.—Motion denied, with \$10 costs.

Thomas Fessenden et al. vs. Francis Vose.— Same.

Moritz Weinfeld vs. John Tracy et al.—Same.

Mortez weinield vs. John Fracy et al.—Same.
Huhn et al. vs. Dalton et al.—Same.
Linn vs. Chardavoyne.—Same.
Dorrington vs. Dorrington et al.—Motion granted
in part and denied in part. No costs.
Larned et al. vs. Hotchkiss et al.—Motion granted
without costs and without prejudice to the attach-

ment. McKinley vs. Conover.—The trial was commenced with full knowledge of plaintin's non-residence. It is not, therefore, within 14 Abb., part I. Motion denied, with \$10 costs.

SUPERIOR COURT-SPECIAL TERM. Decisions.

By Judge Barbour.

Reade vs. Waterhouse.—Order vacating stay.
Rodrigites vs. East River Savings Bank (two cases).—Orders for commission.

Harnett vs. Garvey.—Order denying motion for reference in both cases.

Wentworth. Jr., vs. Kobb & Coriles.—Order vacating judgment assignment defendant Coriles.

Woolf vs. Jacobs.—Motion Cenled.

COURT OF GENERAL SESSIONS. Burglaries and Larcenies.

Before Judge Sutherland.
Assistant District Attorney Russell prosecuted or the people in this Court yesterday.

Robert Fields pleaded guilty to grand larceny in stealing, on the 26th of November, a gold watch and chain, valued at \$170, the property of Henry Bennett. He was sent to the State Prison for two years and six months.

William Clark and Thomas Dorsey, youths, charged with burglary in the second degree, pleaded guilty to the third grade of that offence. On the

Patrick O'Neill was tried upon an indictment for forgery, charging him with endorsing the name of William Sheridan, of Verplanck's Point to a note for

\$1,000, which he gave to Albert J. Smith, in December, in payment for the liquor store 11 Park row, which he purchased from Smith & Thurber.

Mr. Sheehan, counsel for O'Neill, showed by Mr. Sheridan, who has been a friend of the prisoner for the last twenty years, and by a number of respectable witnesses, that in November and December O'Neill was crazy. Among other strange acts he committed he said he was going to get married, and invited all his friends to go to Stewart's and get camel's halr shawls and king gloves upon his order, that he owned all the city and carried checks for millions of dollars in his pocket.

The sister of the prisoner was a witness, and testified that she and another relative came from Calbfornia in response to a telegram from O'Neill to the effect that he had property worth a million of dollars. He was arrested upon this charge of forgery the day she arrived here. The jury rendered a verdict of not guilty on the ground of insanity.

The City Judge consented to the discharge of O'Neill, because it satisfactorily appeared that he had recovered from the delirium tremeus which occasioned his insanity.

COURT CALENDARS—THIS DAY.

SUPREME COURT—CIRCUIT—TRIAL TERM—Part 1—Held by Judge Fancher.—Nos. 1811, 1813, 483, 1441, 497, 913, 1039, 747, 931, 1051, 1059, 1423, 767, 759, 761, 763, 765, 767, 771, 777. Part 2—Held by Judge Van Brunt.—Nos. 1641, 337, 530%, 504, 644, 422, 776, 646, 1036, 1038, 742, 744, 746, 754%, 760, 762, 776, 780, 784, 786.

SUPREME COURT—CHAMBERS—Held by Judge Barrett.—Nos. 55, 79, 88, 97, 98, 99, 100, 122, 141, 199, 206, 207, 208, 208, 210, 211, 212, 216, 231, 244, 253, 280, 284, 313, 315, 316, 318, 320, 335, 347, 353, 357, 365, 377. Call 401.

SUPREME COURT—GENERAL TERM—Held by Judges Ingraham, Brady and Learned,—Nos. 143, 144, 146, 250, 149, 150, 152, 163, 164, 165, 166, 167, 168, 169, 170, 171.

SUPERIOR COURT—TRIAL TERM—Part 1—Held by Judge Curtis.—Nos. 1827, 1340, 1885, 1903, 1022, 1457, 1815, 1825, 1899, 1595, 1871, 463, 1621, 47, 1329, Part 2—Held by Judge Freedman.—Nos. 834, 1436, 1256, 1384, 1386, 1140, 234, 1552, 1466, 1594, 1596, 1596, 1690, 1602, 1004.

COURT OF COMMON PLEAS—TRIAL TERM—Part 1—Held by Judge Robinson.—Nos. 1707, 1435, 1542, 1696, 1696, 2790, 129, 1124%, 866, 59, 1366, 68, 1698, 1661, 1566, 374, 2496, 1721, 763, 506, 2807, 1247, 1854, 1303, 1685, 512, 1449, 1760, 612, 613, 1618, 1092, 1644, 511.

COURT OF COMMON PLEAS—GENERAL TERM—Held by Judges Charles P. Daly, Larremore and Loew.
Nos. 142, 4, 24, 28, 29, 30, 33, 48.

MARINE COURT—TRIAL TERM—Part 1—Held by Judges Charles P. Daly, Larremore and Loew.
Nos. 142, 4, 24, 28, 29, 30, 33, 48.

MARINE COURT—TRIAL TERM—Part 1—Held by Judge Spaulding.—Nos. 1604, 1934, 1180, 1194, 119

COURT OF APPEALS CALENDAR.

ALBANY, N. Y., Jan. 14, 1873.

The following is the calendar of the Commission of Appeals for Wednesday, January 15, Instant:
Nos. 82, 83, 85, 86, 87, 89, 90, 90, 91, 306, 324, 17, 48, 50, 65. The Court adjourned till to-morrow at ten